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ABSTRACT

Reported are the final regulations governing programs and projects for special education needs of gifted and talented children and youth pursuant to section 404 of Public Law 93-380. Summarized are the purpose of the regulations and comments and responses to the regulations, including changes. Presented are major provisions and assessment criteria information in the following five categories of program support authorized by section 404: (1) contracts for the development and dissemination of information pertaining to the education of the gifted and talented, (2) grants to State and local educational agencies for planning, development, operation, and improvement of programs and projects, (3) grants to State educational agencies for training teachers and supervisors, (4) grants to institutions of higher education or other agencies for leadership personnel training, and (5) contracts supporting model projects for the identification and education of special groups of gifted and talented children and youth. Also included are general provisions applicable to all awards; such as the definitions of "gifted and talented" and of "differentiated education", and requirements for identification and assessment. (IM)

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PART 160b—PROGRAM FOR THE GIFTED AND TALENTED

Assistance to Special Education Projects

Pursuant to Section 404 of Pub. L. 93-380 (20 U.S.C. 1863, "section 404"), a notice of proposed rulemaking was published in the FEDERAL REGISTER on July 22, 1975 (40 F.R. 30662-30670) setting forth a proposed regulation to add a new Part 160b to title 45 of the Code of Federal Regulations.

The proposed regulation set forth proposed rules and criteria for governing the award of grants and contracts by the Commissioner of Education in order to provide Federal assistance for programs and projects to meet the special educational needs of the gifted and talented.

Interested persons were given thirty (30) days in which to submit written comments, suggestions, or objections regarding the proposed regulation. Approximately 20 letters or written communications were received setting out approximately 65 separate comments. In addition to written comments, oral comments were received from participants in a series of five regional meetings held throughout the country during September for the purpose of explaining the operation of the program. Over 200 persons attended these meetings. Approximately 60 comments were directed to the text of the regulation during these meetings. Substantive comments on the regulation have been carefully reviewed by the Commissioner and are responded to in this preamble. Summaries of the comments on the proposed regulation are set forth below on a section by section basis, together with responses explaining the changes that have been made in the final regulation engendered by the comment, or indicating why no changes were deemed appropriate. A genuine effort has been made to be fully responsive to the comments, in keeping with the Commissioner's understanding of the program purpose and his commitment to use Federal resources available for the program in a manner which will maximize that purpose.

Many of the comments raised questions as to the intended meaning of provisions in the proposed regulation and indicated a need for further clarification. The Commissioner has sought to provide additional clarification or interpretation in response to these questions

and comments in the preamble as well as in the body of the regulation. Prospective applicants and others interested in the program are therefore invited to review the preamble carefully.

A. *Summary.* 1. *Purpose of the regulation.* Section 404 of Pub. L. 93-380 establishes a new program of assistance for programs and projects to meet the special educational needs of gifted and talented children and youth. The purpose of this regulation, which constitutes a new part 160b in title 45 of the Code of Federal Regulations, is to establish basic rules for the conduct of this new Federal program. The statute is silent on certain matters which the applicant must know in order to compete for an award under the program, including activities for which funds will be awarded, application and proposal requirements, and the criteria and standards by which applications and proposals will be judged. The regulation sets forth rules regarding these matters for the guidance of applicants and the general public.

2. *Major Provisions.* The following paragraphs summarize major provisions of the regulation.

a. *Definition of gifted and talented.* Section 160b.2 of the regulation contains the definition of gifted and talented which will be used in the administration of the program. "Gifted and talented" are defined as children or youth, who have been identified at the preschool, elementary, or secondary level as (1) possessing demonstrated or potential intellectual, creative, or specific academic abilities, or leadership capability, or talent in the performing or visual arts, and (2) needing differentiated education or services beyond those being provided by the regular school system to the average student in order to realize these potentialities. This definition is not set forth in the Act but is derived from the Report on the Gifted and Talented made by the U.S. Commissioner of Education to Congress in 1971, and published by the Senate Committee on Labor and Public Welfare in March 1972 as a Committee Print (pp. 2 and 10). The definition was formulated in compliance with a statutory mandate set out in section 806 of Pub. L. 91-230, requiring the Commissioner to define gifted and talented children in accordance with objective criteria and to report to Congress on the need of special education programs to assist them. Section 404 was enacted to meet the needs outlined in that report (Sen. Rept. No. 93-763 at 71).

b. *Identification and assessment.* Included in Subpart A of the regulation is section 160b.3 which sets forth general requirements which all gifted and talented programs assisted under the Act must meet. Among these are provisions relating to procedures for identification and assessment of gifted and talented children and youth by the applicant serving them. As revised, the regulation provides that these procedures must be comprehensive enough to identify and assess all children who might by included in the category of gifted and talented in the area to be served by the program or project. Possible categories for which programs and projects for the gifted and talented might be designed embrace one or more such areas as: general intellectual ability; specific academic aptitude; creative or productive thinking; leadership ability; talent in visual or performing arts; or superior psychomotor ability. Identification of students within such a category must be accomplished by multiple methods of identification. These methods include, but are not limited to, teacher nominations, peer nominations, intelligence tests, and achievement tests. As an example, where a local educational agency wishes to provide a program to meet the special educational needs of students talented in the visual and performing arts, the school district must use procedures designed to identify all gifted and talented children in that category in the area to be served by the program or project through the use of appropriate multiple means of identification such as those suggested in § 160b.3(b)(1)(ii). Children who might be identified as gifted or talented for purposes of a program or project having a different focus, e.g. mathematical ability, need not be included in the scope of the procedures employed for identifying those talented in the visual or performing arts.

c. *Differentiated education.* Section 160b.3(b)(2) requires that programs or projects involving an instructional component must provide differentiated education or services to the participating students. Differentiated education or services, as defined in § 160b.2 means that process of educational instruction which is adaptable to varying levels of individual learning response, and includes, but is not limited to, instructional strategies which accommodate the unique learning styles of the gifted and talented, and flexible administrative arrangements for instruction both in and out of school, such as special classes, seminars, resource rooms, independent study, student internships, mentorships, library media research centers, research field trips, and other appropriate arrangements. This concept is also derived from the Study of the Gifted and Talented done by the U.S. Commissioner of Education in 1971 and submitted to Congress as his Report on the Education of the Gifted and Talented (p. 11).

d. *Grants to SEAs and LEAs.* Subpart C of the regulation contains provision for assistance to State educational agencies and local educational agencies.

Section 160b.22 provides assistance to State educational agencies for projects encompassing Statewide activities, in-service teacher training programs (as described in Subpart D), and one or more local educational agency demonstration projects having Statewide agency administration. Under the regulation, priority points will be given where a State consolidates all three of these components in a single application.

Section 160b.23 governs the award of financial assistance under section 404 to local educational agencies for the establishment or improvement of locally based projects or programs for the gifted and talented. Priority is provided to applications demonstrating exemplary programs or projects that have a significant potential for replicability, or which by their nature will serve as a stimulus or catalyst for other programs, projects or activities, thus building capacity at the local level, or stimulating the development of capacity elsewhere to serve the gifted and talented. A revision has been made to the regulation to require periodic reassessment of all students in the area of the program or project to determine their selection for participation in such special classes. This provision, together with the requirement for use of multiple means of identification in selecting gifted and talented students should guarantee the selection of gifted and talented children from all levels of American society.

It is anticipated that only a limited number of exemplary programs or projects under this section will be assisted in the range of $1,000-$20,000. Since the funding available to the Office of Education is very limited in light of the anticipated number of grant applications expected, only applications showing promise of a high level of impact and replicability can hope to be funded.

e. *Leadership personnel training.* While the statute enumerates several categories of leadership personnel to whom training may be provided, it is silent on the type of training to be provided such personnel. The regulation proposes that this training be carried out along three separate levels: a graduate training program; a leadership training institute; and a program of specialized intership. Only one grant will be made in each of these categories. In order to derive the highest benefit from the Federal funds invested in each of these programs, each application should demonstrate that the program for training leadership personnel proposed in the application will not only assist the personnel involved, but will be directed toward trainees whose training will have an impact throughout the nation in the education of the gifted and talented. (§§ 160b.41-160b.42(b)).

f. *Communications network.* Subpart B of the regulation provides that the Commissioner may enter into contracts to develop and disseminate information to the public pertaining to the education of gifted and talented children and youth. These projects may be targeted, as the Commissioner shall set forth in his request for proposals, to such groups as teachers, counselors, parents, administrators, school psychologists, and gifted and talented students.

g. *Model projects.* The Commissioner is also authorized to enter into contracts with public and private agencies to establish and operate model projects targeted toward special categories of the gifted and talented such as bilingual, handicapped, and migratory. (Subpart F of the regulation). The regulation sets forth characteristic elements, each of which a model project must to some extent embody (§ 160b.53): meeting the needs of a particular subgroup of a spe-

cial category of the gifted and talented; demonstrating thorough knowledge of existing research practice and theory in relation to the defined subgroup in particular; showing a unique relationship to the target population to be addressed; demonstrating awareness of the optimal use of available resources; employing models and strategies that can be generalized for similar target populations; employing applied research measurement methods with provision for formative and summative evaluation; providing for site visits, demonstrations, and the like; and demonstrating input from parents and community organizations.

3. *Public reaction to the proposed regulation.* The overall reaction to the proposed regulation was quite favorable. A number of commenters expressed satisfaction that a long neglected group of students was finally being accorded consideration by the Federal government. They expressed the hope that the impetus to meeting the special educational needs of the gifted and talented now being given on the Federal level would result in an even wider adoption of programs for the gifted and talented at the State and local educational level. They voiced the comment that the regulation, as proposed, was generally well structured to accomplish this objective. In a number of instances they pointed out areas of concern in the proposed regulation, mostly of a minor nature, and suggested technical amendments that would strengthen those areas of the regulation.

Major suggestions received from the public commenters included making the use of multiple means for identification of gifted and talented children and youth a mandatory requirement, applicable in all programs and projects under the Act in which selection of gifted and talented children and youth occurs; greater emphasis on testing and inclusion of children and youth from all levels of American society in order to prevent the institution of a "tracking system" in the guise of establishing a program or project to meet the special eductaional needs of the gifted and talented; and inclusion of amendments to make explicit that not only a local educational agency or a State educational agency but also consortia or combinations thereof are considered eligible applicants for grant awards under the Act.

4. *Organization of regulation.* The regulation sets forth rules and criteria governing contract and grant awards made by the Commissioner for programs and projects for meeting the special educational needs of gifted and talented children and youth under five categories of program support set forth in section 404 of Pub. L. 93-380. Section 404 authorizes:

(1) Contracts for the development and dissemination to the public of information pertaining to the education of the gifted and talented (Subpart B of the regulation);

(2) Grants to State and local educational agencies for planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of the gifted and talented, including children and youth attending nonpublic schools (Subpart C of the regulation);

(3) Grants to State educational agencies for training teachers of the gifted and talented, and their supervisors (Subpart D of the regulation);

(4) Grants to institutions of higher education or other nonprofit agencies or organizations for leadership personnel training (Subpart E of the regulation); and

(5) Contracts with public or private agencies to support model projects for the identification and education of specially targeted groups of gifted and talented children and youth (Subpart F of the regulation).

In addition the regulation also contains, in Subpart A, general provisions applicable to all awards funded under the program, including, in particular, the definitions of "gifted and talented" and of "differentiated education" as used in the regulation as well as a requirement for use of multiple methods for identification of the gifted and talented, all of which are derived from the study done by the Commissioner of Education in 1970-71, and published as the Commissioner's report on the "Education of the Gifted and Talented" (Sen. Comm. on Labor and Public Welfare, Committee Print, 1972).

B. *Detailed summary of comments and responses thereto; changes in the regulation.*

The following comments were submitted to the Office of Education regarding the proposed regulation. After the summary of each comment, a response is set forth indicating changes which have been made in the regulation or the reasons why no change is deemed necessary. The comments are arranged in the order of sections of the final regulation.

§ 160b.2 Definitions. (1) *Comment.* A number of commenters suggested inclusion of a definition of "local educational agency" that was broad enough to include public agencies performing services for several local educational agencies. Other commenters suggested that the term "local educational agency" be broadened to include nonprofit groups whose purpose is to perform services for local educational agencies, particularly in the area of the education of the gifted and talented.

Response. A definition of "local educational agency" has been included in § 160b.2.

The term "local educational agency" as defined in the proposed regulation for the Special Projects Act (45 CFR Part 160) is applicable to this regulation by cross-reference, since the Program for the Gifted and Talented is one of the programs that participate in funds authorized and appropriated under the Special Projects Act. The definition is derived from the Elementary and Secondary Education Act. (20 U.S.C. 881(f)). It has been set out in full in this regulation for the convenience of the readers. A "local educational agency", under the definition, may be any public board of education or other public authority legally constituted within a State for either administrative control or direction, or to perform a service function for public elementary or secondary schools in a school district or other political subdivision in a State created for that purpose, or any combination thereof. It does not include an individual public elementary or secondary school, or any nonprofit private organization performing a service function for a school district. Nothing in the regulation, however, precludes a local educational agency from obtaining the services of a nonprofit private organization by contract in carrying out a project or program for the education of the gifted and talented, or proposing to use a particular elementary or secondary school as the site for carrying out some aspect of an exemplary program for the education of the gifted and talented.

(2) *Comment.* A commenter stated that the contributions of school libraries and library specialists as a resource in the education of the gifted and talented, while mentioned in the Commissioner's report, were omitted from the regulation.

Response. Section 160b.2 has been amended to include references to these services and personnel in the illustrative categories contained in the definitions of "differentiated education" and "State and local educators".

(3) *Comment.* A number of commenters pointed out that school psychologists should be included in the definition of leadership personnel because these persons play a major role in the identification of gifted and talented students.

Response. Section 160b.2 has been amended to include "school psychologists" within the definition of the term "leadership personnel."

(4) *Comment.* A commenter suggested that teachers not be excluded from the definition of "leadership personnel" in the regulation so that teachers may also participate in the training offered.

Response. Amendment has been made to the definition of "leadership personnel" in § 160b.2 to implement this suggestion.

The statute provides for two types of training: (1) training of teachers engaged in the education of the gifted and talented and their supervisors through grants to States (Section 404(d)); and (2) training of leadership personnel through grants to institutions of higher education and other nonprofit agencies (Section 404(e)). The statutory emphasis is on the institution providing the training and the type of training provided. A teacher may choose to participate in either category of training, depending on the teacher's personal objective in taking the training and his or her acceptance into the training course. To remove all confusion on this point, the phrase "other than teachers" has been deleted from the definition of leadership personnel.

§ 160b.3 General Requirements. (5) *Comment.* A number of commenters suggested that the provision for identification of the gifted and talented be strengthened to make the use of multiple

methods of identification mandatory, to make methods other than intelligence testing equally acceptable as intelligence testing as a procedure for identification of gifted and talented children and youths, and to prohibit the exclusion of any child in any program funded under the Act on the basis of the use of one method of identification only.

Response. Amendments have been made to § 160b.3 of the regulation to incorporate these comments.

(a) Section 160b.3(b)(1)(i) has been amended to require the use of multiple means of identification in the selection of all children included in one or more of the categories of gifted and talented in the area to be served by the program or project assisted under the Act. The comment was in line with the thought expressed in the Commissioner's Report to Congress (p. 29), and buttresses the intent of the regulation to assure both the identification of all children and youth who have special gifts and talents and their participation in programs and projects designed to encourage full developments of these gifts and talents.

(b) Section 160b.3(b)(1)(ii) has been amended to provide that the selection of the gifted and talented for inclusion in any program or project shall be made by use of at least two acceptable means of identification. Intelligence testing is noted as one of the possible means of identification but the testing and identification procedures used need not be limited to, or even include, intelligence testing, provided multiple, acceptable methods for identifying those children or youth for participation in the proposed program or project are employed. This will provide an additional chance to qualify to every child who has not qualified under the first testing.

(c) To further assure maximum participation in programs and projects supported under the Act, § 160b.3(b)(1) is further amended by adding subdivision (iii) to prohibit the exclusion of any child from a program or project funded under the Act on the basis of one method of identification only.

(6) *Comment.* One commenter requested more specificity in the categories of gifted and talented children included within the scope of the project, as, for instance, a mention of the handicapped.

Response. A specific reference to the handicapped has been included in § 160b.3(b)(7), setting forth the requirement for scope of participation. Inclusion of a reference to the handicapped in this provision will govern direct consideration of their participation not only in State and local educational projects, but in model projects supported by contract, and their indirect consideration in training programs for teachers and leadership personnel.

(7) *Comment.* Another commenter requested inclusion of a requirement that the project or program should generally reflect the racial, economic, and language factors of the community served, unless a specific request is made to target the program or project on any one subcategory of gifted and talented children or youth in the community.

Response. While the regulation has not been amended specifically to reflect the comment, § 160b.3(b)(7) has been amended to corporate the ruling set forth in *P. v. Riles*, 343 F. Supp. 1306, 502 F. 2d 963 (9th Cir. 1974), that any applicant must be able to demonstrate a rational connection between any tests given and the purpose of the program; in this instance, the identification of the category of gifted and talented within the area to be served by the program or project.

(8) *Comment.* One commenter suggested that the definition of gifted and talented be changed to limit "superior psychomotor ability" to psychomotor ability as demonstrated in the visual or performing arts only.

Response. No change has been made in the regulation.

The definition included in the regulation is derived from the definition in the Commissioner's Report to Congress. This definition was the result of a survey of experts in the field of the education of the gifted and talented. Their concept was that psychomotor ability was an evidence of talent in other fields such as sports, as well as the visual or performing arts.

(9) *Comment.* One commenter suggested that the provision for maintenance of level of support in § 160b.3(b)(4) should be amended to apply to a local educational agency carrying out a program under a State proposal funded under this part. (See § 160b.22). Otherwise the Federal funds could conceivably be used to supplant local moneys formerly expended on such a program.

Response. Section 160b.22(b)(3) has been amended to make this clear and emphasize it.

Section 160b.3(b)(4) applies to all applications for funding under the Act. It requires that any application contain an assurance that any funds received from the Federal government for the program or project should supplement and not supplant funds from other sources presently employed in the project. Such an assurance from a State agency proposing to carry on a demonstration project with the aid of a local educational agency would mean that the State application sets forth the fact that such a program or project if presently in existence and receiving Federal funding, would continue to receive this funding, and that the Federal funding requested by the State educational agency would supplement but not supplant this other funding.

§ 160b.4 Duration of projects. (10) *Comment.* One commenter proposed that the provision contained in § 160b.4(c)(2)(ii)(D) concerning one of the determinations for renewal of a grant be included in § 160b.1 rather than in § 160b.4. The commenter felt that the phrase "in the best interests of the government" seems to provide a possible basis for revocation of grant monies and should be explained to avoid misunderstanding by those applying for funding.

Response. No change has been made in the regulation. The phrase in the context in which it is now placed, puts the applicant on notice that four basic determinants will govern the award of continuation funds, one of which is whether the continuation would be in the best interests of the government. This determination does not imply the revocation or termination of any existing grant, but merely makes explicit that the grantee has no claim on continuation funds (which are to be awarded on a competitive basis) and that the decision to grant Federal assistance for continuation purposes lies in whether the Government determines, as one factor, whether a continuation award would be advantageous in light of the whole program. The three other factors for judgment relate to the project itself; at this point, the benefit to the government is decided.

§ 160b.6 General educational and programmatic criteria. (11) *Comment.* One commenter proposed that § 160b.6(b)(1) be amended to provide that an application, in showing that it has identified the special educational needs of the gifted and talented, demonstrate that the gifted and talented population which have been identified proportionately reflect the racial, ethnic and economic composition of the school district as a whole.

Response. No amendment has been made to the regulation specifically to incorporate this comment. However, as noted in the response to comment 5, the provision for identifying the gifted and talented has been amended and strengthened to assure that all children eligible to participate will be adequately tested for participation in programs and projects assisted under the Act.

§ 160b.11 Information services. (12) *Comment.* A number of commenters requested the inclusion of additional groups of persons involved in the education of the gifted and talented to whom information in this field would be disseminated, and one commenter pointed out that needs for information fluctuate from time to time and the target groups were narrowly set.

Response. The Commissioner is in agreement with both these comments and has revised the regulation accordingly.

Section 160b.11(d), as amended, permits the Commissioner to enlarge the categories of target groups beyond those in the illustrative list, and to set out such target groups as he determines in his request for proposals.

(13) *Comment.* A commenter pointed out that Subpart B does not set forth any criteria for evaluation of proposals.

Response. No change has been made in the regulation.

The criteria for evaluation of proposals under this subpart will be contained in a Request for Proposals (RFP), issued by the Commissioner of Education.

(14) *Comment.* A commenter suggested that provision be made for the

dissemination of information about the success of projects and programs funded under the Act.

Response. Section 160b.11(a) has been amended to permit this. The new subparagraph (4) added to § 160b.11(a) will permit this type of information to be disseminated, whenever the Commissioner determines it would be appropriate to issue requests for contract proposals for dissemination of this information.

§§ 160b.21 and 160b.22 Assistance to State educational agencies. (15) *Comment.* One commenter pointed out that neither in 45 CFR Part 100, nor in 45 CFR Part 160, is there a definition of "State agency" which is broad enough to include combinations or consortia of State agencies.

Response. Technical amendments have been made to make this explicit.

The General Provisions Regulations, which govern all programs administered by the Office of Education including the Program for the Gifted and Talented, provide in 45 CFR 100a.19, that eligible applicants may enter into cooperative arrangements with other eligible applicants in applying for assistance. Thus, any consortium of States could file an application for an award to carry on a demonstration project, a teacher training project, or other project having multi-State impact. As in the case of the definition of local educational agency (see Comment 1), since this was not apparent in the regulation for the Program for the Gifted and Talented, technical amendments have been made in § 160b.2 to make this possibility explicit.

§ 160b.23 Grants to local educational agencies for locally based activities. (16) *Comment.* A number of commenters wanted clarification of what was involved in the statutory requirement that a local educational agency give assurance to the Commissioner that it has submitted its application to a State educational agency for comment, especially as to whether the State educational agency could exercise a veto power.

Response. An amendment has been made to § 160b.23 in response to this comment.

The amendment provides that a State may submit such comments as it deems pertinent to the U.S. Commissioner of Education within 30 days of receipt of the application from a local educational agency. The statutory provision, that the Commissioner may not approve an application from a local educational agency unless that agency gives assurance that it has submitted its application to the State agency, was reflected in the notice of proposed rulemaking by requiring the local educational agency to submit a copy of its application to the State agency at the same time that it submitted the application to the Commissioner. Compliance with this provision is legally sufficient. However, for clarification hereafter, the regulation has been amended to allow the State agency 30 days to provide the Commissioner with the comments it desires to make. The statute does not bind the Commissioner to concur in negative comments from the State and reject an otherwise acceptable application from a local educational agency.

(17) *Comment.* A number of commenters suggested that institutions of higher education, as well as local educational agencies, be required to submit their applications to the State educational agencies for review and comment.

Response. No change has been made in the regulation.

Section 404 of Pub. L. 93-380 provides for State educational review of applications from local educational agencies only. However, a list of grant awards made to nonprofit agencies and institutions within the State will be furnished to the State educational agency.

(18) *Comment.* A number of commenters expressed concern that establishment of special classes by local educational agencies would lead to "tracking" which could work to the detriment of minority and other disadvantaged children and youth.

Response. As stated previously, the amendments made to § 160b.3(b)(1), which are explained in the response to comment 5 above, are designed to address the concerns raised by these commenters.

(19) *Comment.* A number of commenters requested that a local educational agency exemplary project be permitted to include a teacher training component.

Response. A change has been made in § 160b.23(c) of the regulation to respond to this comment.

Incidental teacher training could be a necessary, even if minor, component of a local educational agency exemplary program or project. In fact, it has been expected that incidental related training would be included in an application, where appropriate. To make this explicit, and yet to allow local educational agencies to include this training or not, as the project design requires, § 160b.23(c) has been amended to allow costs for such training, where it is in-service and related to the proposed project.

§ 160b.24 Criteria for evaluating applications of local educational agencies. (20) *Comment.* One commenter suggested that representatives of nonpublic schools, whose pupils are statutorily authorized to be participants in programs and projects carried on by State or local educational agencies under the Act, have a positive role in developing the applications for these programs and projects.

Response. An amendment has been made to § 160b.23(c) of the regulation to provide for greater involvement of nonpublic representatives.

Section 160b.23(c)(3) of the regulation, as published in the Notice of Proposed Rulemaking, required that applications from local educational agencies provide that, if assistance is made available, the applicant will set up an advisory committee representative of persons or groups concerned with the program or project for the gifted and talented supported under the Act. This provision has been amended to list representatives from nonpublic schools among those who may serve on the advisory committee. It is at the level of demonstration and exemplary programs and projects that nonpublic school children will be most likely to participate, and representatives of these schools constitue a concerned class of persons who may be included on the advisory committee.

§ 160b.51 et seq. Model Projects. (21) *Comment.* A number of commenters suggested that Model Projects should not be restricted to serving specific sub-populations of the gifted and talented, but should cover a wider range of objectives.

Response. No change has been made in the regulation.

Subsection (g) of section 404 of Pub. L. 93-380 authorizes model projects for the identification and education of gifted and talented children including special categories, such as bilingual, handicapped children, and educationally disadvantage children. Funds for establishment and operation of model projects are statutorily limited to 15 percent of amounts expended under the Act. In order to be in compliance with the statutory intent of this subsection of the Act and to make maximum use of limited funds for capacity building in specific areas, the regulation limits model projects to serving specific sub-groups of the gifted and talented.

(22) *Comment.* A number of commenters from areas where there are active community and other private organizations concerned with the education of the gifted and talented requested that the input from such organizations be recognized as a part of a model project.

Response. Section 160b.53 has been amended to incorporate the comment. This section lists elements of a model project. An additional element has been added, namely, that a model project demonstrate contributions from parents of target group students and concerned community organizations.

General. (23) *Comment.* Several commenters recommended that the regulations require equal participation by both sexes in programs for the gifted and talented.

Response. No change has been made in the regulation.

The participation of students will be dependent on the identification procedures utilized to determine potential or demonstrated ability and need for differentiated educational services. No distinction is to be made by sex in this identification procedure. The Program for the Gifted and Talented, as all programs of Federal financial assistance, will be subject to Title VI of the Civil Rights Act, Title IX of the Educational Amendments of 1972, and corresponding regulations which prohibit discrimination.

(24) *Comment.* A number of commenters recommended that the distribution of funds be changed so that only activities related to training and capacity building be funded.

Response. No change has been made in the regulation.

If it was the intent of these commenters that only the grant activities under Subparts C, D, and E be funded, the Commissioner is unable to accede to their suggestions.

(25) *Comment.* The comment was made that more funds should be allocated to local educational agencies.

Response. Same response as to comment (19).

(26) *Comment.* A number of commenters recommended that the regulation permit the establishment of enrichment centers and other such provisions which supplement the regular school program.

Response. No change has been made in the regulation.

However, while not spelled out in the regulation for the reason that such particularity would limit rather than further innovation, applications for such programs may be considered under the regulation.

(27) *Comment.* A number of commenters wanted a more detailed breakdown of the points used by the field readers in evaluation of applications.

Response. No change has been made in the regulations.

In drafting the regulation, recognition was given to the need to preserve an appropriate degree of flexibility to program applicants to design and administer projects which they have fashioned. The regulation has set broad parameters within which applicants retain freedom to fashion innovative proposals. It is believed that the criteria are sufficiently specific and that adequate guidance is given as to the weight assigned each criterion.

(28) *Comment.* One commenter recommended that institutions of higher education be allowed to expend funds for additional faculty.

Response. No change has been made in the regulation.

Because of the limitations of funds, it is expected that project costs to be funded under the Act will be limited to incremental costs of establishing and carrying on the program or project, and that such incremental costs will be justified in the application. Such costs may include faculty costs, where so justified.

C. *Other changes.* Typographical and editorial corrections and certain technical changes for clarification and consistency have been made.

Assistance provided under this program is subject to the provisions in the governing legislation as well as the provisions of Part 160 of this chapter. Assistance under this program is also subject to applicable provisions of Subchapter A of this chapter (see, in particular, 45 CFR Part 100a) and Appendices thereof.

After consideration of all comments, Title 45 of the Code of Federal Regulations is amended by adding a new Part 160b to read as set forth below:

Effective date: Pursuant to Section 431(d) of the General Education Provision Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions thereof concerning congressional action and adjournment.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.562, Program for the Gifted and Talented)

Dated: February 29, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: April 27, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Chapter I of Title 45 is amended by adding the new Part 160b to read as set forth below.

PART 160b—PROGRAM FOR THE GIFTED AND TALENTED

Subpart A—General

Sec.
160b.1 Purpose and scope.
160b.2 Definitions.
160b.3 General requirements.
160b.4 Duration of projects.
160b.5 Pre-applications.
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Subpart B—Information Services

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160b.21 General.
160b.22 Grants to State agencies, Statewide activities.
160b.23 Grants to local educational agencies, locally based activities.
160b.24 Criteria for evaluation of applications.
160b.25 Participation of students in nonpublic schools.

Subpart D—Training of State and Local Educators

160b.31 Grants for State Training Projects.
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Subpart E—Leadership Personnel Training

160b.41 Grants for leadership personnel training.
160b.42 Grant activities.
160b.43 Graduate training program for leadership personnel.
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160b.45 Internships.
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Subpart F—Model Projects

160b.51 Contracts for model projects.
160b.52 Eligible applicants.
160b.53 Elements of a model project.
160b.54 Criteria for awards.

AUTHORITY: Section 404, Pub. L. 93-380; 20 U.S.C. 1863.

Subpart A—General

§ 160b.1 Purpose and scope.

(a) *Purpose.* Section 404 of Pub. L. 93-380 (20 U.S.C. 1863) provides a program of grants and contracts to support the education of gifted and talented children and youth through:

(1) The development and dissemination to the public of information pertaining to the education of gifted and talented children and youth (§ 404(b));

(2) Grants to State and local educational agencies for the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of the gifted and talented at the preschool, elementary, and secondary school levels (§ 404(c));

(3) Grants to State educational agencies for training personnel engaged, or preparing to engage, in educating the gifted or talented or as supervisors of such personnel (§ 404(d));

(4) Grants to institutions of higher education or other appropriate nonprofit agencies for training leadership personnel in the education of the gifted and talented (§ 404(e)); and

(5) Contracts with public and private agencies for the establishment and operation of model projects for the identification and education of the gifted and talented (§ 404(g)).

(b) *Scope.* This part applies to projects assisted with funds appropriated pursuant to Section 404 of Pub. L. 93-380, or with funds made available for expenditure under Section 404 pursuant to the Special Projects Act by Section 402 of Pub. L. 93-380.

(c) *Other pertinent regulations.* Assistance under this part is subject to applicable provisions contained in (1) subchapter A of this chapter, relating to fiscal, administrative, property management, and other matters (45 CFR Parts 100, 100a), and (2) Part 160 of this chapter, relating to the Special Projects Act.

(20 U.S.C. 1851, 1863)

§ 160b.2 Definitions.

(a) "Act means Section 404 of the Education Amendments of 1974 (Pub. L. 93-380), relating to assistance for the education of the gifted and talented.

(20 U.S.C. 1863)

(b) "Differentiated education or services" means that process of instruction which is capable of being integrated into the school program and is adaptable to varying levels of individual learning response in the education of the gifted and talented and includes but is not limited to:

(1) A differentiated curriculum embodying a high level of cognitive and affective concepts and processes beyond those normally provided in the regular curriculum of the local educational agency;

(2) Instructional strategies which accommodate the unique learning styles of the gifted and talented; and

(3) Flexible administrative arrangements for instruction both in and out of school, such as special classes, seminars, resource rooms, independent study, student internships, mentorships, research field trips, library media research centers and other appropriate arrangements.

(20 U.S.C. 1863, U.S. Commissioner of Education's Report on "Education of the Gifted and Talented," pp. 11 and 28 (Sen. Comm. on Labor and Public Welfare, Comm. Print, 1972, hereinafter "Comm. Print."))

(c) "Gifted and talented" means children and, where applicable, youth, who are identified at the preschool, elementary, or secondary level as (1) possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability or in the performing and visual arts; and (2) needing differentiated education or services (beyond those being provided by the regular school system to the average student) in order to realize these potentialities.

(20 U.S.C. 1863, Comm. Print (1972) 10-11)

(d) "Instructional equipment" means those items of equipment and accompanying learning materials unique to and necessary for the operation of differentiated educational programs or special educational services for gifted and talented students which do not duplicate existing items.

(20 U.S.C. 1863(c)(3))

(e) "Leadership personnel", for the purposes of subpart E, includes, but is not limited to, teacher trainers, school administrators, supervisors, researchers, State consultants, school psychologists and other persons engaged in directing or providing services to the gifted and talented children and youth. These persons may also include potential leaders who represent parental, organizational, and other community and professional interests in the education of the gifted and talented.

(20 U.S.C. 1863(e))

(f) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary school.

(20 U.S.C. 881(f))

(g) "Non-public elementary or secondary schools" means schools which provide elementary or secondary education, as determined under State law (but not including any education beyond grade 12), and which are controlled by other than a public agency.

(20 U.S.C. 1863(c)(2)(A)(iii))

(h) "State and local educators", for the purposes of subparts C and D, includes persons engaged in or preparing to be engaged in the education of the gifted and talented, such as teachers, counselors, library media specialists, or first line supervisors.

(20 U.S.C. 1863(d))

(i) "State educational agency" for purposes of subparts C and D means any State educational agency, or any consortium of such agencies that have entered into a cooperative agreement for carrying out programs or projects under these subparts on a multi-State basis.

§ 160b.3 General requirements.

(a) *Scope.* Each application under this part is subject to the requirements described in paragraph (b) as well as the requirements contained in the particular subpart pursuant to which such application is submitted. Applications for assistance under this part must contain information sufficient to enable the Commissioner to determine that the requirements are satisfied with respect to the program or project for which assistance is requested in the application. Applications not meeting these requirements will not be subject to further evaluation under this part.

(b) *Requirements.* (1) *Procedures for identification and assessment of gifted and talented.* (i) In the case of any program or project under this part which involves the provision of services to the gifted and talented, the procedures for identification and assessment of the gifted and talented must be sufficiently comprehensive to identify and assess all children who are in the category (or categories) of gifted and talented children (as defined in § 160b.2) addressed by the program or project and who are in the area to be served by the program or project.

(ii) Such identification shall be accomplished by the use of multiple methods which shall include at least two acceptable procedures (such as teacher nominations, measures of creativity, peer nominations, intelligence tests, evaluations adapted to the cultural norm or other predictive measures) related to the specified category (or categories) of gifted and talented to be served by the program or project. A specified category of the gifted and talented may be:

(A) General intellectual ability,

(B) Specific academic aptitude,

(C) Creative or productive thinking,

(D) Leadership ability,

(E) Talent in visual and performing arts,

(F) Superior psychomotor ability.

(iii) No child shall be denied entry into a program or project on the basis of only one method of identification.

(20 U.S.C. 1863, Comm. Print (1972) at 10-11)

(2) *Differentiated education.* Where the program or project to be assisted includes an instructional component serving the gifted and talented, the program or project must involve differentiated education or services, as defined in § 160b.2, designed to ensure emphasis on affective as well as cognitive development of the student.

(20 U.S.C. 1863; Comm. Print (1972) at 11)

(3) *Individualized education.* The activities to be carried out must be structured to respond to the individual needs, both cognitive and affective, of the children, teachers, and other personnel to be served.

(20 U.S.C. 1863)

(4) *Maintenance of level of support.* An application for assistance under this part must contain an assurance that funds made available to the applicant under this part will be so used (i) to supplement and, to the extent practicable, increase the level of funds that would, in the absence of funds under this part, be available from non-Federal sources for the purposes of the program for which assistance is sought, and (ii) in no event to supplant such funds.

(Sen. Rept. No. 93-763, at 72 (1974))

(5) *Multiplier effect.* The program or project must be designed to affect and improve the education of the gifted and talented on a national, Statewide, or regional level and to attract other public or private resources to the education of the gifted and talented.

(Sen. Rept. No. 93-763, at 72 (1974))

(6) *Scope of participation.* Provision must be made for the participation of, or for assistance with respect to the needs of, all targeted gifted and talented in the area to be served by the program or project, including those who are economically deprived, handicapped, or culturally different as evidenced by traits such as bilingual capability, or other traits common to the cultural norm. Where tests are employed as a means of identifying the gifted and talented, the recipient of funds under this Part must be able to demonstrate a rational connection between such tests and the purpose for which they are given.

(20 U.S.C. 1863 *P. v. Riles*, 343 F. Supp. 1306)

(7) *Evaluation.* The application must contain satisfactory assurance that the applicant (i) will conduct a comprehensive ongoing evaluation as well as a final evaluation of the program or project, and (ii) will cooperate with the Commissioner's evaluation of specific plans, programs, projects, or activities assisted under the Act.

(8) *Internal consistency.* The application must establish that all components of the program or project are interrelated and interdependent.

(20 U.S.C. 1863)

§ 160b.4 Duration of projects.

(a) Grant awards made pursuant to this part will be for a period of up to one year.

(b) Grant applications may be filed proposing a program or project with a duration in excess of one year. Such application must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and estimated budget breakouts to obtain these objectives in any proposed subsequent year. If the Commissioner finds that the application demonstrates that multi-year support is needed to carry out the proposed program or project, the Commissioner may, in the initial notification of grant award for the program or project, indicate an intention to assist the program or project on an appropriate multi-year basis through continuation grants.

(c) (1) Subject to availability of funds, where the Commissioner has made an initial award to support a project proposal requiring more than one year for completion, continuation awards may be made.

(2) (i) Continuation applications will not be competitive with initial awards in any subsequent fiscal year, but will be competitive with other applications for continuation awards in the same year.

(ii) Applications for continuation awards will be reviewed to determine:

(A) If the grantee has complied with the grant terms and conditions, the Act, and the regulations;

(B) The effectiveness of the program or project to date or the constructive changes proposed as a result of the ongoing evaluation;

(C) The extent to which the program or project is meeting the applicable priorities; and

(D) The extent to which continuation of Federal assistance to the program or project is in the best interests of the government.

(20 U.S.C. 1863 (c), (d), and (e))

§ 160b.5 Pre-applications.

(a) With respect to the award of grants under subparts C, D, and E, the Commissioner may require applicants to submit a pre-application in accordance with § 100a.41 of this chapter by publishing a closing date for pre-applications in the FEDERAL REGISTER.

(b) In the event the Commissioner does require pre-applications pursuant to paragraph (a) of this section:

(1) As part of the narrative statement concerning the program or project required in pre-application forms provided for by § 100a.41 of this chapter, which may not exceed ten double-spaced typewritten pages, applicants for grants must provide information on the objectives and activities proposed which is responsive to applicable criteria set forth in §§ 160b.6, and 160b.24, 160b.32, or 160b.46, as appropriate.

(2) If the applicant proposes a program or project with a duration in excess of one year, the narrative statement must include an explanation of the need for multi-year support, and the budget forms must include a detailed budget for the first year and summary projections for the balance of the proposed project.

(3) Pre-applications will be evaluated by the Commissioner on the basis of their prospects for meeting the funding requirements set out in § 160b.3 and the applicable subpart, and for competing successfully with similar applications in terms of the criteria set forth in § 160b.6 and the applicable subpart.

(4) Applicants submitting the most highly rated pre-applications will be invited to submit applications for review.

(20 U.S.C. 1863)

§ 160b.6 General educational and programmatic criteria.

(a) *Applicability.* Applications for grants under this part will be evaluated on the basis of:

(1) funding criteria contained in the subpart to which the application relates (see §§ 160b.24, 160b.32, and 160b.46); and

(2) general criteria set forth in paragraph (b) of this section. The criteria contained in 45 CFR § 100a.26 are not applicable to this part.

(b) *General criteria.* The following general criteria will be applied in evaluating all applications for grants under this part (100 points).

(1) *Needs assessment (10 points).* The extent to which the program, project, or activity has identified the special educational needs of the gifted and talented population that it proposes to serve (including the assessment of such needs of minority groups or economically deprived children in the area to be served) and gives evidence that this identification was derived through a process involving the population to be served, educators, and the community (including parents, private groups, and/or institutions).

(2) *Statement of objectives (20 points).* The extent to which the program, project, or activity defines specific immediate objectives in relation to the needs identified and contains appropriate strategies to meet these objectives.

(3) *Activities (25 points).* The extent to which the program, project, or activity:

(i) Is designed to meet the unique needs of each participant;

(ii) Incorporates innovative concepts and techniques which can be replicated to meet current problems experienced in gifted and talented education.

(4) *Resource management (25 points).* The extent to which the program, project, or activity:

(i) Demonstrates selection of competent staff and consultants;

(ii) Shows evidence of plans to prepare and train staff;

(iii) Effectively and efficiently utilizes existing monetary, human, and informational resources, public, private, and community;

(iv) Demonstrates innovative coordination of resources for program management.

(5) *Evaluation (10 points).* The extent to which the program or project contains an ongoing evaluation component which will:

(i) Utilize objective assessment procedures to the greatest degree possible for all program aspects;

(ii) Involve persons both directly and indirectly affected by the program, project, or activity, such as parents, students, and the community;

(iii) Include mechanisms for effecting changes in the program or project based on periodic compilation of results;

(iv) Include the application of standards of success designed by persons associated with the program or project as well as those standards developed by professionals elsewhere;

(v) Report results based on actual accomplishments by the gifted and talented students or their teachers which are a direct result of the project, program, or activity.

(6) *Dissemination (10 points).* The extent to which the proposed program or project demonstrates a substantial commitment of monetary and human resources for the purpose of:

(i) Organizing final results and products in exportable form;

(ii) Training personnel from other agencies and institutions desiring to utilize a similar model or program.

(20 U.S.C. 1863)

§ 160b.7 Allowable costs.

(a) *General.* (1) Allowable costs under programs or projects to which funds are awarded pursuant to this part shall be determined in accordance with cost principles set forth in the applicable appendices to subchapter A of this chapter.

(2) The costs of nonexpendable personal property with an acquisition cost of $1,000.00 or more per unit, depreciation or use allowances, automatic data processing, memberships, subscriptions and professional activities shall be unallowable under this part unless they have been provided for in the grant agreement and specifically authorized by the Commissioner. Facilities, capital assets, and repairs which materially increase the value or useful life of capital assets generally shall be unallowable.

(b) *Costs in training projects.* Training projects of short-term duration under Subparts D and E:

(1) Grants for these training projects may include provisions for (i) the payment of tuition and fees, and (ii) the payment to participants (who are not otherwise compensated for their time while receiving training) of stipends, as follows:

(2) (i) Where stipends are paid to participants, payments will be at the rate of $30.00 for each full day of training, up to $150.00 per week. If a day of training involves less than five hours, payment for attendance would be at the rate of $6.00 per hour subject to the weekly limit of $150.00; or

(ii) Where the educational personnel participating in the training are ordinarily paid for their work at a salary scale determined by a collective bargaining agreement in which the minimum hourly rate for the individual is more than $6.00 per hour, the individual would

be eligible for a stipend at the minimum hourly rate provided under the collective bargaining agreement;

(iii) Where a local educational agency or other public educational agency compensates teachers or other educational personnel whom it employs for their time in receiving training under this subparagraph and must hire a substitute for a participant in the training during the time of such participation, reimbursement may be made in accordance with law under the grant to such agency in the amount required to hire the substitute;

(iv) Up to fifty percent of travel costs will be paid for participation in any training component under this subparagraph.

(c) *Graduate training of leadership personnel.* (1) Grants which support training in the education of the gifted and talented leading to a graduate degree or beyond as provided for in subpart E may include provisions for (i) payment to the grantee of the incremental costs of planning organizing, staffing, and conducting such courses, seminars, and practicums during their preparation and first year operation, and (ii) partial tuition and fees of participants on a credit hour basis, and (2) payment to participants of stipends and dependency allowances as the Commissioner may determine to be consistent with prevailing practices under comparable Federal programs providing fellowship support.

(d) *Internships.* Where a grant to an institution of higher education or other appropriate non-profit institution or agency, or a consortium thereof, relates to a project or program involving internships for the participants with State or local public agencies, Federal agencies, or institutions, provision may be made to include an amount for the internship in the grant at the entering rate for professionals in the agency to which the intern is to be assigned. The application must contain sufficient information and justification to satisfy the Commissioner that such payment would contribute substantially to the realization of the project objective. The amount of the internship shall be limited to the equivalent of entering salary.

(e) *Indirect costs.* (1) Except as provided in subparagraph (2) of this paragraph, indirect costs will be allowed under projects funded under this part in accordance with the indirect cost rate allowances set out in the Appendices to subchapter A of this chapter;

(2) Indirect cost rates for educational training grants will be awarded at

(i) The actual level of indirect costs as determined under clause (1) of this subparagraph, or

(ii) The rate of eight percent of total direct costs, including stipends and dependency allowances, whichever is the lesser.

(FMC 73-8 and FMC 74-4; 20 U.S.C. 1863, 1331(c)(b); 1232c(b)(2))

Subpart B—Information Services

§ 160b.11 Information development and dissemination.

(a) *General.* The Commissioner shall enter into contracts with one or more public or private agencies or organizations to develop and disseminate information to the public pertaining to the education of gifted and talented children and youth.

(b) *Activities.* Development of such information includes, but is not limited to:

(1) Collection of available data on identification of the gifted and talented;

(2) Analyses of existing methodologies and new discoveries in the continuing educational needs of the gifted and talented;

(3) Information on current and developing training opportunities for teachers of the gifted and talented and for leadership personnel in this area; and

(4) Any other information considered relevant to the education and development of gifted and talented children and youth.

(c) *Dissemination methods.* Such project(s) shall provide for the preparation and dissemination of information by the most appropriate means available, including publication or any other appropriate medium of dissemination.

(d) *Targeting.* In soliciting proposals under this Subpart, the Commissioner shall determine the target groups for dissemination activities, including but not limited to one or more of the following groups: Teachers counselors, parents, administrators, school psychologists and gifted and talented students.

(20 U.S.C. 1863(b))

Subpart C—Assistance to State and Local Agencies for Planning, Development, Operation, and Improvement of Programs.

§ 160b.21 General.

(a) *Scope.* This subpart governs grants to State educational agencies and local educational agencies under subsection (c) of the Act to assist such agencies or any consortia thereof in the planning, development, operation, and improvement of programs or projects designed to meet the special educational and related needs of the gifted and talented at the preschool, elementary, and secondary school levels.

(20 U.S.C. 1863(c))

(b) *Requirements.* In addition to the requirements set forth in § 160b.3, an application for assistance under this subpart shall:

(1) Provide satisfactory assurance that funds paid to the applicant will be expended solely to plan, establish, and operate programs or projects which:

(i) Are designed to identify and to meet the special educational and related needs of gifted and talented children; and

(ii) Are of sufficient size, scope and quality to make substantial progress toward meeting those needs;

(20 U.S.C. 1863(c)(2)(A)(i))

(2) Set forth such policies and procedures as are necessary for acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and the evaluation of the effectiveness of the program or project in achieving its purpose;

(20 U.S.C. 1863(c)(2)(A)(ii))

(3) Provide satisfactory assurance that, to the extent consistent with the number of gifted and talented children in the area to be served by the applicant who are enrolled in non-public elementary and secondary schools, provision will be made for the participation of such children in accordance with § 160b.25 of this part;

(20 U.S.C. 1863(c)(2)(A)(iii))

(4) Set forth a sufficient description of the program or project for which assistance is sought to enable Commissioner to make all necessary determinations under this part in order to consider and evaluate the application in light of the applicable criteria in this part. Applicants are advised to organize their presentations with reference to such criteria and to explain how they believe the criteria relate to the proposed program or project.

(20 U.S.C. 1863(c))

§ 160b.22 Grants to State agencies; Statewide activities.

(a) *General.* Grants under this subpart may be made to State educational agencies or consortia thereof to assist them in planning, establishing, and operating programs or projects which are designed to have Statewide impact in identifying and meeting the special educational and related needs of the gifted and talented.

(b) *Components.* A State educational agency applying under this subpart may include in a single application components involving:

(1) A project encompassing Statewide activities as described in this subpart ("State grant");

(2) An inservice teacher training program described in subpart D ("training component"); and

(3) One or more local educational agency demonstration projects having Statewide impact ("local demonstration project component"). (Funds for such projects shall not supplant any State or local funds being expended by the local educational agency for the education of gifted and talented children and youth).

(c) *Examples.* The following list is illustrative (but not exhaustive) of the types of Statewide or cooperatively developed multi-State activities which may be assisted under this subpart:

(1) The provision by a State educational agency of developmental and tech-

nical assistance (through regional area service centers or other mechanisms) to assist specific local educational agencies in carrying out programs or projects to meet the special educational and related needs of the gifted and talented;

(2) A survey and assessment to meet these needs which currently exist in local educational agencies in the State;

(3) Determination of the need for particular programs and projects to meet these needs as a result of the survey and assessment;

(4) Development of a comprehensive plan for serving the gifted and talented in local educational agencies in the State;

(5) Provision for a State coordinator(s) or other official(s) with responsibility for development, improvement, coordination, and delivery of other State services with respect to programs for the gifted and talented in local educational agencies;

(6) Arrangements with local educational agencies to carry out demonstration projects at the local educational agency level which have Statewide or regional impact in meeting the special educational and related needs of the gifted and talented;

(7) Statewide competitive scholarships, or student internships for gifted and talented children to work with mentors;

(8) The development and implementation of an inservice training program for local educational personnel in the administration of appropriate and comprehensive methods for the identification and education of the gifted and talented and assessment of their needs (Subpart D, Training of Educators); and

(9) Other activities of a capacity-building nature designed to enhance the capacity of the State educational agency and local educational agencies in the State to meet the special educational and related needs of the gifted and talented.

(d) *State educational agencies.* Applications for assistance under this part from State educational agencies must demonstrate that the Statewide activities for which assistance is requested under this subpart will be coordinated with any other activities to be carried out by the State educational agency under this part, including activities under subpart D (relating to training of teachers).

(e) *Methods of operation.* A State educational agency may carry out its functions under an approved application under this subpart directly or through local educational agencies. However, a State educational agency must maintain administrative direction and control with respect to any program or project for which it is receiving assistance under this subpart.

(f) *Notice.* It is anticipated that, for fiscal year 1976, funds will be available to support only a limited number of comprehensive Statewide programs under this subpart, and funds will be insufficient to support State educational agency projects in all States. Accordingly, only those programs or projects will be funded which meet the requirements of this part, and which are highly rated in accordance with the applicable criteria in comparison with all other State applications submitted.

(20 U.S.C. 1863(c))

§ 160b.23 Grants to local educational agencies; locally based activities.

(a) *General.* (1) Grants to local educational agencies under this subpart will be made to assist such agencies in the establishment or improvement of exemplary programs and projects to meet the special educational and related needs of the gifted and talented at the preschool, elementary, and secondary school levels. It is anticipated that only a limited number of exemplary programs or projects under this section will be supported in the approximate range of $1,000 to $20,000 each. (A total of $250,000 of the amount available will be initially reserved for grants under this section).

(b) *Priority.* In the approval of applications and the award of grants under this section, priority will be given to programs or projects (1) which the applicant demonstrates have a significant potential for replicability; or (2) which will best serve as a catalyst or stimulus for other programs, projects, or activities to meet the needs of the gifted and talented in areas, regions, or States lacking programs or services to meet these needs.

(20 U.S.C. 1863(c), Sen. Rept. No. 93-763, at 72 (1974))

(c) *Requirements.* In addition to the requirements of § 160b.3 and § 160b.21 (b), applications for assistance under this subpart from a local educational agency must:

(1) Provide satisfactory assurance that the application has been submitted to the appropriate State educational agency for its review and recommendation no later than the time the application has been submitted to the Commissioner. Upon review, the State educational agency may submit to the Commissioner, within 30 days of its receipt of a copy of the application, such recommendations as it deems pertinent.

(20 U.S.C. 1863(c)(2)(B))

(2) If the State has a comprehensive plan for the education of the gifted and talented, set forth a description of how the activities proposed to be carried out under the proposed program or project relate to the State plan;

(3) If assistance is made available under this project, provide satisfactory assurance that provision will be made for establishing an advisory committee composed of persons broadly representative of the community in the school district or otherwise to be served by the program or project, including persons representing agencies or other entities serving the needs of the gifted and talented, teachers, administrators, gifted students, nonpublic school representatives, and parents of gifted and talented children;

(20 U.S.C. 1231d))

(4) In the case of establishment of special classes for the gifted and talented for the purposes of the program or project, provide satisfactory assurance, that reassessment will be made of students participating in and those not participating in such classes from time to time, in order periodically to redetermine such participation.

(d) *Illustrative activities.* The following types of activities are illustrative of the types of activities which may be supported (in whole or in part) in connection with programs or projects assisted under this section:

(1) Exemplary programs involving comprehensive differentiated education or services to meet the special educational and related needs of the gifted and talented;

(2) Exemplary programs involving opportunity for study outside the classroom (including apprenticeships and mentorships);

(3) Exemplary programs of special counseling to meet the needs of the gifted and talented;

(4) The provision of postsecondary studies at the secondary school level;

(5) The establishment of special classes for gifted and talented children; and

(6) Exemplary programs for special target groups of gifted and talented such as preschool children, minority group children and economically disadvantaged.

(e) *Allowable costs.* (1) Allowable costs for a local exemplary project may not include other than incremental costs of establishing or operating the project (such as salaries for additional staff, and special equipment, the purchase and use of which is justified in the proposal).

(2) The cost of facilities, capital assets, and repairs which materially increase the value or useful life of capital assets shall be unallowable under this section.

(3) Where appropriate and justified, costs for an in-service training element for teachers involved in the project may be included in the proposal.

(20 U.S.C. 1863(c))

§ 160b.24 Criteria for evaluation of applications.

In order to achieve the purposes set forth in the Act, the Commissioner, in determining whether to approve an application for a Federal grant and the amount of the grant pursuant to this subpart will consider, in addition to the general requirements in § 160b.3 the following factors, weighted according to the indicated points:

(a) *All applications.* (100 points) The general educational and programmatic criteria set forth in § 160b.6 of this part.

(b) *State educational agency applications.* (100 points) With respect to State educational agency applications:

(1) (10 points)—The extent to which the Statewide or other activities under the application will be carried out pursuant to a comprehensive State plan for identifying and meeting the special edu-

national and related needs of the gifted and talented;

(2) (20 points)—The likelihood that the activities to be carried out under the program or project will be sustained and expanded by the applicant following the expiration of Federal assistance, as measured by:

(i) Evidence of financial and other commitment of the applicant to the project, and

(ii) The extent to which the program or project is designed to build the capacity of the applicant to plan, develop, operate, improve or assist programs or projects to meet the special educational needs of the gifted and talented;

(3) (20 points)—Evidence of commitment by the State educational agency to further the Act's purposes in the State as reflected by such factors as the existing or planned organizational status within the State agency of personnel with administrative responsibilities related to the gifted and talented;

(4) (10 points)—The extent to which the proposed program or project responds to the needs of existing and planned programs for the gifted and talented in local educational agencies throughout the State for developmental and technical assistance from the State educational agency;

(5) (20 points)—In the case of State projects involving one or more local educational agency demonstration projects, the extent to which the proposed model project(s) is significantly and directly related to the provision of quality differentiated educational services and activities to the gifted and talented throughout the State (in evaluating his criterion, the criteria set forth in paragraph (c) below will be used and given weight as follows: (1) (7 points); (2) (4 points); (3) (3 points); (4) (6 points)).

(6) (20 points) The comprehensiveness and quality of the in-service training of State educators component in the State application. In evaluating this factor, the criteria set forth in subpart D, § 160b.32 will be used.

(c) *Local educational agency applications.* With respect to local educational agency applications (100 points):

(1) (35 points)—The extent to which the proposed program or project, if successful, is of an exemplary design in order to stimulate the development of programs or projects to meet the special educational or related needs of the gifted and talented in school districts in addition to that of the applicant local educational agency as reflected by factors such as:

(i) The extent to which the program or project is capable of replication;

(ii) The extent to which the applicant has planned for providing developmental or technical assistance to non-applicant local educational agencies in the State with similar problems;

(iii) The relative cost effectiveness of the program or project as to development, replication, and utilization by others;

(iv) The extent to which the program or project holds promise of providing new and innovative approaches to meeting the special educational needs of gifted and talented children;

(2) (20 points)—The extent to which the applicant has developed, with the support of concerned parents and community members, fair, adequate, comprehensive, nondiscriminatory and multiple methods for identifying and selecting the gifted and talented children in the category to be included in the proposed program or project and assessing their educational needs and the means for meeting such needs.

(3) (15 points)—The extent to which the proposed program or project provides for the integration of, or mutual reinforcement between, programs to meet the special educational needs of the gifted and talented and the regular educational program of the local educational agency (taking into account such factors as the degree to which educational benefits or innovations derived from such program or project will be communicated to or used by teachers, or will be otherwise infused into, the general instructional program of the school system).

(4) (30 points)—The extent to which the proposed program is innovative and effective enough to provide significant educational gains for the gifted and talented at low cost.

(20 U.S.C. 1863(c))

§ 160b.25 Participation of students in non-public schools.

(a) *General.* Each program and project carried out under Subpart C of this part shall, to the extent consistent with the number of gifted and talented students enrolled in non-public schools in the geographic area served by the program or project, make available for these students any differentiated educational services supported under this subpart which will meet the special educational needs of such students. Each application submitted by a State educational agency or a local educational agency shall indicate the number of students enrolled in nonpublic schools who are expected to participate in each program and project proposed by such agency and the manner of their expected participation.

(b) The provision of special educational services to nonpublic school children may involve such arrangements as dual enrollment, educational television, or other appropriate services or techniques made available by, and under the supervision of, a public agency.

(c) *Avoidance of separate classes.* Any program or project to be carried out on public premises and involving joint participation by students enrolled in public schools and nonpublic schools shall include such provisions as are necessary to avoid forming classes that are separated by school enrollment or religious affiliation.

(20 U.S.C. 1863(c)(2)(A)(iii))

Subpart D—Training of State and Local Educators

§ 160b.31 Grants for State Training Projects.

(a) *General.* The Commissioner is authorized to make grants to State educational agencies or consortia thereof for training persons engaged or preparing to be engaged as teachers or other educational personnel, or as supervisors in the education of the gifted and talented. Applications by these State agencies shall indicate whether the programs are to be conducted directly by the State educational agency or through grants by the State educational agencies to institutions of higher education.

(b) *Priority.* (1) If the State submits an application under Subpart C and this subpart, the request for assistance shall be consolidated into a single application under Subpart C. Priority will be given to these applications. See § 160b.22(b) and § 160b.24(b).

(2) In the review of applications under this subpart, priority will be given to applications for grants to assist inservice training through such activities as workshops during the school year, summer institutes, part-time university courses, and the establishment of area training centers.

(20 U.S.C. 1863(d); Comm. Print, (1972) at p. 33)

§ 160b.32 Criteria for awards.

In order to achieve the purposes set forth in the Act, the Commissioner, in determining whether to approve an application for a grant and the amount of the grant pursuant to this subpart or as a component of a State grant under Subpart C, will consider the criteria in § 160b.6 (100 points) and the following criteria, weighted as indicated: (20 points)

(a) *General.* (1) (3 points) The extent to which the program, project, or activity demonstrates evidence of substantial commitment to continuation of training activities beyond the funding period;

(2) (2 points) The extent to which the application is coordinated with a State agency application under Subpart C to provide a training component in the provision of planning or developing programs for the gifted and talented in the State.

(b) *Activities.* (1) (2 points) The extent to which the project, program, or activity is concentrated upon participants who will actively serve in school systems in teaching or supervising the education of the gifted and talented.

(2) (3 points) The extent to which the proposed project is, or contributes to, an on-going training program which is of a scope to produce long-range and lasting changes in the education of the gifted and talented, e.g., conferences will be supported only when they are part of a more extensive training program.

(3) (2 points) The extent to which the application, if it proposes summer in-

stitutes or workshops, also proposes one or more follow-up sessions beyond the training that is Federally supported.

(c) *Resource Management.* (1) (3 points) The extent to which the application proposes utilizing as staff or consultants persons currently engaged in directing or providing service through differentiated education or services for gifted and talented students, or who have recognized expertise in the field of specialization related to the education of the gifted and talented, such as researchers, teacher trainers, and supervisors.

(2) (1 point) The extent to which an applicant State educational agency which proposes to conduct its training program through an institution of higher education will coordinate and make available all State resources necessary to enhance the quality and effectiveness of the training.

(d) *Selection of participants.* (1) (2 points) The extent to which the application indicates that the participants to be trained not only show promise of being successful teachers, or supervisors in the education of the gifted and talented, but also have a commitment from their local school districts to work in this educational field upon completion of their training.

(2) (2 points) The extent to which the application indicates that the participants have been chosen on the basis of past performance or assessed potential through the use of specified appropriate indices.

(20 U.S.C. 1863(d))

§ 160b.33 Allowable costs.

Grants under this subpart may be used for allowable costs in accordance with § 160b.7 for carrying out such training and where such training is carried out by an educational institution, may include provision for tuition and fees.

(20 U.S.C. 1863(d))

Subpart E—Leadership Personnel Training

§ 160b.41 Grants for leadership personnel training.

(a) *Purpose.* The Commissioner is authorized to make grants to assist programs involving specialized or intensive training for leadership personnel (as defined in § 160b.2) in the education of the gifted and talented children and youth.

(b) *Eligible parties.* Parties eligible for assistance under this subpart are institutions of higher education or other appropriate non-profit institutions or agencies.

(20 U.S.C. 1863(e))

§ 160b.42 Grant activities.

(a) *General.* Assistance under this subpart is available for activities designed to carry out the purposes of § 160b.41.

(b) *Priorities.* Priority in the award of assistance under this subpart will be given to training programs in the following categories:

(1) A graduate training program designed to train a limited number of exceptional leaders in the field of education of the gifted and talented for service in this field throughout the Nation as described in § 160b.43 ("graduate training program for leadership personnel");

(2) A program providing for a training institute for leadership personnel of actual and potential stature throughout the Nation in the education of the gifted and talented as described in § 160b.44 ("training institute for the gifted and talented"); and

(3) Programs providing for specialized internships for actual and potential leadership personnel throughout the Nation in the education of the gifted and talented, as described in § 160b.45 ("internships").

(c) It is anticipated that, for Fiscal Year 1976, a single grant award will be made in each of the above categories.

(20 U.S.C. 1863(e))

§ 160b.43 Graduate training program for leadership personnel.

Applications to carry out a training program for the development of leaders in the education of the gifted and talented shall set forth a program which:

(a) Provides intensive training (including graduate courses and practicums) concentrating on specific problems or areas of concern relating to the education of the gifted and talented;

(b) Includes adequate procedures for the selection of persons of potentially outstanding leadership ability in the education of the gifted and talented as participants in such program;

(c) Provides an opportunity, as part of such graduate training, for practical experience through an internship of not less than one semester in duration with a local, State or Federal agency or other public or private agency for which academic credit is given;

(d) Provides that the individual receiving training may obtain academic credit towards a degree for courses taken at institutions of higher education other than the one at which the participant is matriculated. Where several institutions of higher education are combined in a consortium, it is expected that the course of study will involve rotation among them; and

(e) Provides that each participant will develop, design, and complete a project designed to contribute to the improvement of education for the gifted and talented.

(20 U.S.C. 1863(e))

§ 160b.44 Training institute for gifted and talented.

Applications for a grant under this subpart to support the establishment and operation of a leadership personnel training institute for the education of the gifted and talented must demonstrate that the program for which assistance is requested will:

(a) Provide technical assistance and coordination services for short-term, intensive training institutes for leadership personnel carried out at the local level;

(b) Involve the conduct of periodic workshops and conferences on topics of importance in the education of the gifted and talented such as the culturally different gifted, the creative child, the affective development of the gifted child, the impact of the gifted child on his or her family;

(c) Arrange for the short-term training of teams of leadership personnel from local agencies or other appropriate public or private agencies or institutions or from organizations having nationwide impact on the education of the gifted and talented;

(d) Develop training materials for use by State and local educational agencies, schools, parent groups, and others relating to leadership in the education of the gifted and talented; and

(e) Provide a communication network for leadership personnel.

(20 U.S.C. 1863(f))

§ 160b.45 Internships.

(a) *General.* Assistance may be made available as part of a program carried out under § 160b.43, or § 160b.44 or under this section to support the provision of internships to train leaders or potential leaders in the education of the gifted and talented in local, State, or Federal agencies or other public or private agencies or institutions. These internships must offer unique opportunities for professional growth in serving the educational needs of the gifted and talented.

(b) *Use of funds.* Grant funds made available for internships under this subpart may be used for compensation for the interns in accordance with § 160b.7 (d).

(20 U.S.C. 1863(f))

§ 160b.46 Criteria for awards.

In addition to determining that an application under this subpart has met the applicable requirements of § 160b.3, the Commissioner will evaluate the application in accordance with the educational and programmatic criteria in § 160b.6 (100 points) and the following criteria:

(a) *General.* (50 points) The extent to which:

(1) The proposed training will provide a variety of experience, practical as well as academic (10 points);

(2) The proposed training will be of sufficient scope, quality, and duration to produce long-range and lasting changes (5 points);

(3) Provision is made for follow-up training after the initial training has ended (10 points);

(4) Participants are chosen on the basis of exceptional potential for successful leadership in advancing the education of the gifted and talented as evidenced by demonstrated ability, past performance, and assessed potential (15 points); and

(5) The quality of the training program (as evidenced by the experience and background of the proposed staff and

the plan for conducting the training) is exemplary in nature (10 points);

(b) *Graduate training program for leadership personnel.*

In the case of applications to carry out a program under § 160b.43, the following factors will be considered (50 points). The extent to which:

(1) (i) The activities are integrated into a total academic program for participant trainees, and

(ii) Provision is made for experienced advisors to work as mentors with the trainees at their academic institutions as well as during internship and academic or practicum work experiences at other institutions or locations (20 points);

(2) The training involves a practicum adequately designed to give participants experiential knowledge both in identifying or teaching the gifted and talented, and in administering programs for the gifted and talented (20 points);

(3) In the case of consortia, there is evidence that the written agreement among the participating institutions permits participants who have enrolled at one institution to attend or participate (for academic credit) in the courses, programs, seminars, or other instructional offerings, of any of the other participating institutions, including the experience gained during internships (10 points);

(c) *Training institute for gifted and talented.*

In the case of applications under §160b.44, the following factors will be considered (50 points). The extent to which:

(1) The applicant possesses exceptional capability in carrying out training programs for the education of the gifted and talented (8 points);

(2) The applicant has resources to institute and maintain a nationwide communications network among those it trains or serves (8 points);

(3) The applicant has generated resources and outside support for its activities (5 points)

(4) The application demonstrates potential to organize and conduct conferences and institutes to train practitioners (teachers, parents, administrators, counselors, gifted students, and others) to better serve gifted and talented youth (8 points);

(5) The applicant demonstrates a capacity to provide developmental assistance to State educational agencies and local educational agencies and is able to employ this capacity in its training program (7 points);

(6) There is evidence of commitment to provide training through internships under this subpart (3 points);

(7) The applicant demonstrates a capacity to disseminate its products to practitioners in the field of the gifted and talented (4 points); and

(8) Evidence of experience in or potential for providing developmental and technical assistance to State educational agencies, local educational agencies, parent groups and other special target groups such as minority groups, urban education systems, isolated educational groups, etc. (7 points).

(20 U.S.C. 1863(e))

(d) *Internships.* In the case of internships under § 160b.45, the following factors will be considered (50 points). The extent to which:

(1) The agencies at which the interns are to be placed have made, or have the potential to make, a positive contribution to the education of the gifted and talented and are committed to doing so (10 points);

(2) The organization administering the intern program has a commitment to helping the interns to be suitably placed in their work experiences with mentors to guide them (12 points);

(3) The organization proposing to administer the intern program, because of evident potential to manage successful internship programs training educational leaders, has the capacity to manage the proposed program with a minimum organizational overhead (15 points);

(4) The agencies or institutions with which the interns will be placed have mounted, or will mount, programs on behalf of the gifted and talented in which the interns will be assigned meaningful participation (13 points).

Subpart F—Model Projects

§ 160b.51 Contracts for model projects.

(a) The Commissioner is authorized to enter into contracts with public and private agencies and organizations to establish and operate model projects. These model projects shall involve a program of activities as defined in § 160b.53, which is targeted toward a special category of the gifted and talented (such as bilingual, early childhood, handicapped, educationally disadvantaged, migratory, rural, native American, or culturally different).

(b) Funds available for the support of model projects may not exceed 15 percent of the total amount expended under the program in any fiscal year.

(20 U.S.C. 1863(g))

§ 160b.52 Eligible applicants.

(a) From funds reserved under the provision of subsection (g) of the Act, the Commissioner may enter into contracts with any public or private agency to establish or operate a model project which embodies all or most of the elements of such a project as defined in § 160b.53.

(b) The Commissioner may from time to time issue requests for proposals (RFP) to establish a model project as described in the specifications for such a proposal.

(20 U.S.C. 1863(g))

§ 160b.53 Elements of a model project.

A model project shall include the following elements:

(a) It must be targeted to identify and to meet the specific needs (through differentiated services as defined in § 160b.2) of a particular sub-group of the gifted and talented as referred in § 160b.51, in such areas as career education, bilingual education, early childhood education, the education of the handicapped, the educationally disadvantaged (such as migrant children and youth, urban poor and rural youth), the culturally different (such as ethnic minorities, Indians, and Eskimos), and others;

(b) It must demonstrate thorough knowledge of existing research practices and theory in the education of the gifted and talented in general and the defined sub-group in particular;

(c) It must show unique relation to the target population to be addressed and speak to needs critical to this group;

(d) It must demonstrate awareness of and optimal use of available resources, human and material, on local, State, regional, or national levels, including resources of allied fields;

(e) It must employ models and strategies which can be generalized by such means as multi-media packages for dissemination to similar target populations and are designed for replication in whole or in part;

(f) It must employ applied research and measurement methods with provision for formative and summative evaluation;

(g) It must make provision for site visits, demonstrations, and dissemination of program information to the public, including workshops or conferences for this purpose; and

(h) It must demonstrate contributions and input from parents of target group students and concerned community organizations.

(20 U.S.C. 1863(g))

§ 160b.54 Criteria for awards.

In reviewing proposals for contracts under this subpart, the Commissioner will consider requirements and criteria set out in § 160b.3 and the following:

(a) *Project design.* (1) The extent the proposal demonstrates an innovative approach to the education of a targeted group of the gifted and talented;

(2) The extent to which the proposal exhibits elements of a model project set out in § 160b.53;

(b) *Needs assessment.* The extent to which the proposal delineates the existence of special educational needs for a targeted segment of the gifted and talented and proposes to meet those needs;

(c) *Statement of objectives.* The extent to which the proposal sets forth measurable objectives for the model project in relation to the identified needs of the targeted group of students which are realistically attainable within the limits of the award and the available resources.

(d) *Resource management.* The extent to which the proposal demonstrates that:

(1) Currently available resources will be integrated into the project; and

(2) The portion of project costs to be funded by the Federal government is reasonable in order to attain the expected benefits.

(e) *Staffing.* The extent to which the background, training, and experience of

the staff is relevant to engaging in the education of the gifted and talented and particularly relevant to the needs of the targeted group.

(f) *Coordination.* The extent to which (1) the model project will provide a demonstration element for other school personnel both public and private interested in the education of the gifted and talented, and (2) the extent to which the model project can accommodate the services of and provide experience for interns as authorized under Subpart E.

(g) *Evaluation.* The extent to which the proposal provides for periodic self-evaluation, the results of which will influence the further thrust of the project;

(h) *Replicability.* The extent to which the model project is cost effective in terms of the Federal investment therein and would be replicable by others without extensive investment; and

(i) *Dissemination.* The extent to which the proposed project demonstrates a substantial commitment of monetary and human resources for the purpose of :(1) organizing final results and products in exportable form; and (2) providing training opportunities for personnel from other agencies and institutions desiring to utilize a similar model or program.

(20 U.S.C. 1863(g))

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